

Appl. No. : 10/661,853
Filed : September 12, 2003

REMARKS

This is in response to the Office Action mailed July 17, 2006.

Claims 26-34 are pending in the application.

Section 112 Rejection

Claims 27 and 32 were indicated as rejected under 35 U.S.C. § 112(2). In particular, the Examiner noted that Claims 27 and 32 included duplicate terminology “a base portion” to that in Claims 26 and 30. Applicant has amended Claims 27 and 32 to clarify that the “base portion” referred to in those claims is that of the controller platform.

Section 102/103 Rejections

The Examiner rejected Claim 26 under 35 U.S.C. §102(b) as being anticipated by Weiss (USPN 6,623,006), rejected Claims 27-34 under 35 U.S.C. §103 as being unpatentable over Weiss, either alone or in combination with another reference.

Applicant asserts that new Claims 26-34 are allowable over the prior art, including Weiss.

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Independent Claim 26

In order for Weiss to anticipate Claims 26, every element of the claimed invention must be identically shown in that reference, and the elements must be arranged as in the claim under review.

In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Weiss, however, can only be said to anticipate Claim 26 if one ignores the obvious differences in the inventions generally, and if one ignores the actual meaning of the claimed and disclosed elements.

Weiss discloses a gaming machine which has a door or front panel which is mounted at the front of an open housing, which door governs access to the interior of the housing. A movable display is mounted behind the door. Applicant's invention, however, is a gaming machine which does not have such a door. Instead, the front of the console area of the gaming machine is fixed. In order to provide access to the interior thereof, a display is movably mounted with respect to an opening in the console area. This difference is recited in the claim, and from this general level, it is clear that the claimed invention and that disclosed in Weiss are inherently different.

Even if one attempts to overlook the fundamental differences between Weiss and the present invention, one must also ignore the plain meaning of various of the claim terms in order for Weiss to be said to anticipate Claim 26. Applicant asserts that there is a substantial difference between a "door" or front panel, as Weiss discloses, and "bezel" as is claimed by Applicant. First, each of these terms has a plain meaning which is different from the other. Second, the Weiss patent and the present application use those terms consistent with their plain meanings. In particular, Weiss discloses a "door", i.e. a member which is movable between a first position in which it closes access to a housing or other interior area, and a second position in which it is open and access to that area is provided

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through the opening which the door otherwise occupies. On the other hand, Applicant discloses and claims a bezel. This is a member which “frames” another element. The bezel does not act as a door, i.e., it does not selectively open an access-way to an interior space. In that Claim 26 claims a bezel and Weiss does not disclose or suggest use of a bezel as claimed, Weiss does not anticipate Claim 26.

There are other reasons why Weiss does not anticipate Claim 26. For example, Claim 26 recites a cabinet having a console area with an access opening. A display is movable between a position in which it selectively opens and closes that access opening. Weiss, however, discloses a gaming machine where the door or front panel, and not a display, opens and closes the access opening. In particular, in Weiss, once the door is open, the interior of the housing is accessible. At that point, while the display may be positioned in that interior space, the “access opening” itself is already opened by movement of the door.

Claims 27-34

Referring to M.P.E.P. § 706.02(k), in order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference. Second, there must be a reasonable expectation of success. Finally, the combination must teach or suggest all of the claim limitations.

That Weiss discloses such a different gaming machine configuration than is disclosed and claimed by Applicant is magnified when one attempts to “modify” Weiss, such as by combining the teaching of other references. In particular, it is clear that there is no motivation to modify Weiss as

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the Examiner suggests, there is no reasonable expectation of success, and the combination does not teach all of the claim limitations.

Claim 30: Applicant claims that the display has first and second pairs of pins on opposing sides of the display, and that the first pair of pins is above the second pair of pins. This configuration is illustrated in Figures 3 and 4 of the application. Weiss, on the other hand, discloses a first pair of pins which are on the top and bottom of the display (not on opposing sides), and a single third pin on the opposing side. Weiss does not disclose two sets of pins, sets of pins comprising pins on opposing sides, or a first set of pins above a corresponding second set of pins.

The Examiner asserts that it would be obvious to provide Weiss with two sets of pins, but has not provided any evidence of why or how that modification would be accomplished or work. The Federal Circuit has specifically cautioned against the selection of prior art using hindsight, where the art is selected based upon the solution rather than the problem to be solved. Monarch Knitting Machinery Corp. v. Fukuhara Indus. & Trading Co., 139 F.3d 1009 (Fed. Cir. 1998). Given the significant problems associated with attempting to modify Weiss, it is clear that the Examiner is attempting to simply re-create the claimed configuration rather than focusing upon Weiss's teaching.

Weiss discloses a display which rotates about a first set of pins along a vertical axis. The third pin on the opposing side acts as a latch. There is no suggestion of how to utilize two sets of pins, let along two sets of pins as configured (where the sets of pins are on opposing sides and a first set of pins are above a second set of pins). For example, if Weiss were modified to include a second set of pins, would the second set of pins be provided at the opposing side of Weiss's display just like the first set, but in replacement of the third pin? In that event, how would the display rotate, since the

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display would then be fixed by two set of pins along vertical axes, neither of which would then permit rotation of the display? Further, even in that event, Weiss would not have two sets of pins extending from opposing sides (Weiss's pins extend from the top and bottom). Once again, it is only by ignoring the actual substantial differences between Weiss's invention and that as claimed can one allege that Weiss can conveniently be modified to comprise the claimed configuration.

Claims 27 and 31-32: Applicant claims a movable controller platform. There is no suggestion to combine LaFleur with Weiss so that Weiss includes a movable platform. As disclosed in the present application, an advantage of using a movable platform in Applicant's invention is that access to the interior is via a small access opening controlled by the display (rather than by opening the entire front of the machine with a door). Movement of the controller platform makes access to the controller much easier through such a small opening.

Weiss, however, discloses a normally configured gaming machine with a door. Because the door can be opened to provide access to the entire interior (i.e. the entire front of the housing can be opened), there is no need to have a movable controller platform since the controller is readily accessible through the completely open front of the housing!

Even though various elements of an invention may be found individually in a number of references, this does not mean that the invention is obvious. As stated by the Court of Appeals for the Federal Circuit, “[v]irtually all inventions are combinations and virtually all are combinations of old elements.” Intel Corp. v. U.S. Int’l Trade Comm., 946 F.2d 821, 842, 20 U.S.P.Q.2d 1161, 1179 (Fed. Cir. 1991). Obviousness may only be established by combining pieces of prior art if there is some “teaching, suggestion, or incentive supporting the combination.” In re Geiger, 815 F.2d 686, 688, 2

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U.S.P.Q.2d 12776, 1278 (Fed. Cir. 1987). In this case, the Examiner has found individual elements in various references, but attempts to combine them when there is no suggestion to do so.

Claims 29 and 34: The Examiner apparently asserts that it would be obvious to modify Weiss so that the “bezel” rotates about a horizontal axis as disclosed by LaFleur. Again, this is evidence that the Examiner is ignoring the actual teaching of Weiss. Since Weiss’s “bezel” is actually a door, the Examiner is suggesting that Weiss’s door should apparently be attached to the housing so that it rotates about the bottom of the door. This means that a 3-4 foot tall gaming machine door is supposed to rotate forward. This would make it nearly impossible for the door to be handled (since it would require the operator to carefully lower the door under its weight and push the door back upwardly to close it). In addition, even in that configuration, the player input buttons of Weiss would not be accessible (as illustrated, the bottom portion of Weiss’s door is solid, and that is the portion which would be immediately located over the buttons if the door were opened downwardly).

There is also no suggestion to modify Weiss (even if such could be accomplished). In particular, as detailed in the application, the benefit to the claimed configuration is that the buttons can be accessed even while the display is moved forward and the access opening behind it is accessible. In Weiss, when the door is open, the operator has complete access to the buttons anyway (i.e. there is nothing otherwise blocking the buttons). Thus, there is no need to modify Weiss as suggested, since Weiss already discloses a configuration in which the buttons are accessible while the operator accesses the interior of the machine.

Claim 28: This claim recites a particular mounting configuration of the bezel of Applicant’s claimed configuration. Applicant notes that McKay, like Weiss, does not even disclose a bezel.

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McKay merely discloses a gaming machine where access to the interior is provided through a large door which moves relative to a fixed display. Thus, in combination, Weiss and McKay do not disclose a gaming machine where a display controls an access opening to interior space, and where a bezel selectively controls movement of the display.

Summary

Applicant asserts that Examiner is mechanically examining the claims of the application and then attempting to make the prior art "fit" the claims. This is evident by the fact that: (1) the rejections ignore the plain teaching of Weiss and the plain meaning of the claim terms; (2) that there is no suggestion to modify Weiss as suggested; and (3) that various of the suggested "modifications" to Weiss are untenable.

Applicant asserts that Claims 26-34 are in a condition for allowance and respectfully request a notice as to the same. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

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